



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-533-886]

Polyester Textured Yarn from India: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination with Final Antidumping Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of polyester textured yarn (yarn) from India for the period of investigation (POI) April 1, 2017 through March 31, 2018. Interested parties are invited to comment on this preliminary determination.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Janae Martin or Jesus Saenz AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0238 or (202) 482-8184, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on November 19, 2018.¹

¹ See *Polyester Textured Yarn from India and the People's Republic of China: Initiation of Countervailing Duty Investigations*, 83 FR 58232 (November 19, 2018) (*Initiation Notice*).

On February 1, 2019, pursuant to a request from the Unifi Manufacturing, Inc. and Nan Ya Plastics Corporation, America (the petitioners),² Commerce postponed the preliminary determination of this investigation to March 18, 2019.³ Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018, through the resumption of operations on January 29, 2019.⁴ If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day. The revised deadline for the preliminary determination is now April 26, 2019.

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.⁵ A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>, and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

² See Letter, "Countervailing Duty Investigation of Polyester Textured Yarn from India – Petitioners' Request to Postpone Preliminary Determination," dated December 10, 2018.

³ See *Polyester Textured Yarn from India and the People's Republic of China: Postponement of Preliminary Determinations in the Countervailing Duty Investigations*, 84 FR 1062 (February 1, 2019).

⁴ See Memorandum to the Record from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations for Enforcement and Compliance, "Deadlines Affected by the Partial Shutdown of the Federal Government," dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

⁵ See Memorandum, "Decision Memorandum for the Preliminary Affirmative Determination: Countervailing Duty Investigation of Polyester Textured Yarn from India," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

Scope of the Investigation

The product covered by this investigation is polyester textured yarn from India. For a complete description of the scope of this investigation, *see* Appendix I and “Scope Comments” section below.

Scope Comments

In accordance with the preamble to Commerce’s regulations,⁶ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).⁷ Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*. For a summary of the product coverage comments and responses submitted to the record for this preliminary determination, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.⁸ Commerce is preliminarily modifying the scope language as it appeared in the *Initiation Notice* to exclude bulk continuous filament yarn. *See* revised scope in Appendix I.

Methodology

Commerce is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.*, a financial contribution by an “authority” that confers a benefit to the recipient, and that the subsidy is specific.⁹ In making these findings, Commerce relied, in part, on facts available and, because it finds that certain respondents did not act to the best of their ability to respond to Commerce’s requests for information, it drew an adverse inference where

⁶ *See Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

⁷ *See Initiation Notice*.

⁸ *See* Memorandum, “Polyester Textured Yarn from India and the People’s Republic of China: Scope Comments Decision Memorandum for the Preliminary Determinations,” dated concurrently with this notice (Preliminary Scope Decision Memorandum).

⁹ *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

appropriate in selecting from among the facts otherwise available.¹⁰ For a full description of the methodology underlying our preliminary conclusions, *see* the Preliminary Decision Memorandum.

Alignment

In accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), Commerce is aligning the final countervailing duty determination in this investigation with the final determination in the companion antidumping duty investigation of polyester textured yarn from India, based on a request made by the petitioners.¹¹ Consequently, the final countervailing duty determination will be issued on the same date as the final antidumping determination, which is currently scheduled to be issued no later than September 9, 2019, unless postponed.

All-Others Rate

Sections 703(d)(1)(A)(i) and 705(c)(5)(A) of the Act provide that, in the preliminary determination, Commerce shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act.

In this investigation, Commerce preliminarily calculated individual estimated countervailable subsidy rates for JBF Industries Limited (JBF) and Reliance Industries Limited (Reliance). Therefore, Commerce calculated the all-others rate using a weighted average of the

¹⁰ See sections 776(a) and (b) of the Act.

¹¹ See Petitioners' letter, "Polyester Textured Yarn from China and India – Petitioners' Request to Align the Department's Final Determinations," dated March 29, 2019.

individual estimated subsidy rates calculated for JBF and Reliance using each company's reported sales values¹² for the merchandise under consideration.

Preliminary Determination

Commerce preliminarily determines that the following estimated countervailable subsidy rates exist:

Company	Subsidy Rate
JBF Industries Limited	20.45 percent
Reliance Industries Limited	7.09 percent
All Others	13.82 percent

Suspension of Liquidation

In accordance with section 703(d)(1)(B) and (d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*. Further, pursuant to 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the rates indicated above.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of its public announcement, or if there is no public announcement, within five days of the date of this notice in accordance with 19 CFR 351.224(b).

¹² Both companies reported their respective sales values as public information.

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

As stated in the Preliminary Scope Decision Memorandum, all interested parties will have the opportunity to submit case and rebuttal briefs on the preliminary scope determination.¹³ The deadline for these comments will be established in the *Federal Register* notice regarding the preliminary determination of the companion antidumping duty investigation of polyester textured yarn from India to be issued at a later date.

Case briefs or other written comments, not pertaining to scope issues, may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.¹⁴ Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold

¹³ See Preliminary Scope Decision Memorandum.

¹⁴ See 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Parties are reminded that briefs and hearing requests are to be filed electronically using ACCESS and that electronically filed documents must be received successfully in their entirety by 5 p.m. Eastern Time on the due date.

International Trade Commission Notification

In accordance with section 703(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its determination. Pursuant to section 705(b)(2) of the Act, if the final determination is affirmative, the ITC will make its final injury determination before the later of 120 days after the date of this preliminary determination or 45 days after the final determination.

Notification to Interested Parties

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

Dated: April 26, 2019.

Jeffrey I. Kessler,
Assistant Secretary
for Enforcement and Compliance.

Appendix

Scope of the Investigation

The merchandise covered by this investigation, polyester textured yarn, is synthetic multifilament yarn that is manufactured from polyester (polyethylene terephthalate). Polyester textured yarn is produced through a texturing process, which imparts special properties to the filaments of the yarn, including stretch, bulk, strength, moisture absorption, insulation, and the appearance of a natural fiber. This scope includes all forms of polyester textured yarn, regardless of surface texture or appearance, yarn density and thickness (as measured in denier), number of filaments, number of plies, finish (luster), cross section, color, dye method, texturing method, or packing method (such as spindles, tubes, or beams).

Excluded from the scope of this investigation is bulk continuous filament yarn that: (a) is polyester synthetic multifilament yarn; (b) has denier size ranges of 900 and above; (c) has turns per meter of 40 and above; and (d) has a maximum shrinkage of 2.5 percent.

The merchandise subject to this investigation is properly classified under subheadings 5402.33.3000 and 5402.33.6000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
 - II. Background
 - III. Injury Test
 - IV. Subsidies Valuation
 - V. Benchmarks and Discount Rates
 - VI. Use of Facts Otherwise Available and Adverse Inferences
 - VII. Analysis of Programs
 - VIII. Conclusion
- [FR Doc. 2019-09080 Filed: 5/2/2019 8:45 am; Publication Date: 5/3/2019]